

SCOTT N. SCHOOLS (SCSBN 9990)
 United States Attorney
 THOMAS MOORE (ASBN 4305-O78T)
 Assistant United States Attorney
 Acting Chief, Tax Division
 9th Floor Federal Building
 450 Golden Gate Avenue, Box 36055
 San Francisco, California 94102
 Telephone: (415) 436-6935
 Fax: (415) 436-6748

Attorneys for United States of America

IN THE UNITED STATES DISTRICT COURT FOR THE
 NORTHERN DISTRICT OF CALIFORNIA
 SAN FRANCISCO DIVISION

WENDY LEE MOORE and RICHARD
 ANDREW TARANTINO, JR., pro se,

Petitioners,

v.

THE UNITED STATES and
 WELLS FARGO BANK,

Respondents.

Case No. C-07-02860 MISC CRB

GOVERNMENT'S CASE
MANAGEMENT CONFERENCE STATEMENT

DATE: September 21, 2007
 TIME: 10:00 a.m.

The United States submits this separate Case Management Conference Statement for the reason that although petitioners provided this office with a Joint Case Management Conference, they did not return calls for government revisions or additions. For that reason and for the Court's benefit the United States makes the following addition to the Joint Case Management Statement.

PETITIONERS ARE NOT ENTITLED TO DISCOVERY

Petitioners state that discovery is necessary in this matter. The petitioners are not entitled to discovery as because the summary nature of summons proceedings limits the circumstances under which discovery is available. United States v. Stuart, 489 U.S. 353, 369 (1989). Discovery is rarely appropriate in summons cases. See Chen Chi Wang v. United States, 757 F.2d 1000, 1004 (9th Cir. 1985). In order for discovery to occur, a taxpayer must make "a substantial preliminary showing that enforcement of the summons would result in an abuse of the court's process" and that "discovery would likely lead to useful, relevant evidence." Robert v. United States, 364 F.3d 988,

1 999-1000 (8th Cir. 2004). Because no such showing has been made discovery is not appropriate in
2 this matter.

3 Respectfully submitted,

4 SCOTT N. SCHOOLS
5 United States Attorney

6 /s/ Thomas Moore
7 THOMAS MOORE
8 Assistant United States Attorney
9 Tax Division
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28